

REMARKS

Upon entry of the present amendment, claims 1 and 20 will be canceled without prejudice or disclaimer of the subject matter recited therein; claims 3-16 and 21-31 will be amended, so that claims 3-16 and 21-31 will remain pending.

The present amendment (a) amends the claims to advance the application to allowance by removing language asserted to be indefinite from the claims; (b) places claims 21 and 22 into independent form, which the examiners indicated in a March 11, 2010 telephone interview to be allowable over the prior art of record; (c) cancels composition claim 1 and method claim 20; and (d) amends the dependent claims to depend from allowable claim 22 while being directed to method terminology.

Accordingly, entry of the present amendment after final rejection is respectfully requested along with reconsideration of the rejections and allowance of the application in view of the following remarks.

Statement of March 11, 2010 telephone interview

Applicants express appreciation for the courtesies extended by Supervisory Patent Examiner Frederick Krass and Examiner Walter Webb a March 11, 2010 telephone interview with Applicant's representative Arnold Turk.

During the interview, Applicant's representative indicated that claims 21 and 22 would be amended to delete the "related" terminology, and it appeared that the examiners agreed that this amendment would remove the indefiniteness rejection of record.

Moreover, it was noted that claims 21 and 22 are not rejected based upon prior art in the Office Action. The examiners confirmed that claims 21 and 22 would in condition for allowance upon withdrawal of the indefiniteness rejection.

Information Disclosure Statement

Applicant is being on even date herewith a Third Supplemental Information Disclosure Statement to make of record a Final Office Action, dated June 3, 2010, in U.S. Application No. 10/582,079, which published as US 2007/0190086 A1.

The Examiner is requested to include an initialed copy of the Form PTO-1449 submitted with the Third Supplemental Information Disclosure Statement and to include a copy of the initialed form with the next communication from the Patent and Trademark Office.

Response To Rejection Under 35 U.S.C. 112, Second Paragraph

In response to the rejection of claims 7, 14, 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite, Applicant respectfully submits the following.

While Applicant submits that the claims definitely recite the claimed subject matter, claims 7, 21 and 22 have been amended herein in an attempt to advance prosecution of the application.

Regarding claim 14, Applicants submit that the terminology "supplement" is well known to one having ordinary skill in the art so that one having ordinary skill in the art would readily understand the scope and content of the claimed subject matter. For example, one having ordinary skill in the art would readily understand the meaning of "supplement", such as

including vitamins and minerals, as discussed in Applicant's specification, such as at page 14, beginning at line 10.

Accordingly, the rejection under 35 U.S.C. 112, second paragraph, should be withdrawn.

Response to Art Based Rejections and Indication of Allowable Subject Matter

Applicant notes that claims 1, 3-16, 20 and 23-31 are rejected based upon assertions of obviousness of the subject matter recited therein in the rejections set forth in the Final Office Action. Moreover, during the above-noted March 11, 2010 telephone interview, the examiners indicated that claims 21 and 22 are allowable over the prior art of record.

In view of the indication of allowable subject matter and in order to advance the application to allowance, claims 21 and 22 have been placed into independent form, the claims have been amended to address the indefiniteness rejection, claims 1 and 20 have been canceled; and the dependent claims have been amended to be in method form. Accordingly, the application should be in condition for allowance, and an early mailing of the Notices of Allowance and Allowability are respectfully requested.

Applicant notes that the amendment herein has been made to advance the application to allowance and is made without expressing and agreement or acquiescence with the rejections of record. In this regard, Applicant preserves the right to submit one or more continuation and/or divisional applications directed to the canceled or deleted subject matter, and to present arguments for patentability in the event that such subject matter is subjected to rejection.

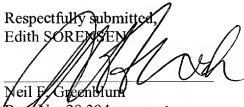
CONCLUSION

In view of the foregoing, the Examiner is respectfully requested to reconsider and withdraw the rejections of record, and allow each of the pending claims.

Applicants therefore respectfully request that an early indication of allowance of the application be indicated by the mailing of the Notices of Allowance and Allowability.

Should the Examiner have any questions regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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